

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

COPY

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UNITED STATES OF AMERICA

: SEALED
: INDICTMENT
:

- v -

: S6 11 Cr. 365 (CS)
:

FRANK NATIELLO III,

a/k/a "Junior,"

a/k/a "Cheech,"

JOSHUA SCHULTZ,

a/k/a "Josh Schultz,"

a/k/a "El Gordo,"

JESUS GUTIERREZ,

a/k/a "Jenaro Ramirez,"

a/k/a "Genaro Ramirez,"

a/k/a "Jenaro Ramirez Casiano,"

a/k/a "Jenaro Casiano,"

a/k/a "Steve,"

a/k/a "Ponch,"

CLEMENTE FERNANDEZ, and

JUAN DAVID ZAPATA-MONTOYA,

a/k/a "Juan Hernandez,"

Defendants.
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COUNT ONE

The Grand Jury charges:

1. At all times relevant to this Indictment, an organization that grew and distributed multi-million dollar quantities of marijuana operated in and around Sullivan County, New York and elsewhere in the New York metropolitan area (herein, the "Natiello Organization").

2. The Natiello Organization grew and distributed thousands of pounds of marijuana. Specifically, the Natiello organization established "grow houses" or "marijuana grow operations" in rural areas of Sullivan County, New York. The

Natiello Organization's "grow houses" or "marijuana grow operations" were residential homes, garages and other structures, the interiors of which were outfitted with high intensity lights and ventilation systems that were often powered by industrial sized diesel generators. The Natiello Organization's grow houses grew marijuana plants, often hundreds at time, in pots until such time as the plants were ready to be dried and trimmed so that the marijuana could be collected and later sold for thousands of dollars a pound.

STATUTORY ALLEGATIONS

3. From in or about 1998 through in or about April 2011, in the Southern District of New York and elsewhere, FRANK NATIELLO III, a/k/a "Junior," a/k/a "Cheech," JOSHUA SCHULTZ, a/k/a "Josh Schultz," a/k/a "El Gordo," JESUS GUTIERREZ, a/k/a "Jenaro Ramirez," a/k/a "Genaro Ramirez," a/k/a "Jenaro Ramirez Casiano," a/k/a "Jenaro Casiano," a/k/a "Steve," a/k/a "Ponch," CLEMENTE FERNANDEZ, JUAN DAVID ZAPATA-MONTOYA, a/k/a "Juan Hernandez," the defendants, and others known and unknown, intentionally and knowingly did combine, conspire, confederate, and agree together and with each other to violate the narcotics laws of the United States.

4. It was a part and an object of the conspiracy that FRANK NATIELLO III, a/k/a "Junior," a/k/a "Cheech," JOSHUA SCHULTZ, a/k/a "Josh Schultz," a/k/a "El Gordo," JESUS GUTIERREZ,

a/k/a "Jenaro Ramirez," a/k/a "Genaro Ramirez," a/k/a "Jenaro Ramirez Casiano," a/k/a "Jenaro Casiano," a/k/a "Steve," a/k/a "Ponch," CLEMENTE FERNANDEZ, JUAN DAVID ZAPATA-MONTOYA, a/k/a "Juan Hernandez," the defendants, and others known and unknown, would and did manufacture and distribute, and possess with intent to manufacture and distribute, a controlled substance, in violation of Title 21, United States Code, Section 841(a)(1).

5. The controlled substance involved in the offense was 1000 and more marijuana plants, in violation of Section 841(b)(1)(A) of Title 21, United States Code.

OVERT ACTS

6. In furtherance of the conspiracy and to effect the illegal objects thereof, the following overt acts, among others, were committed in the Southern District of New York and elsewhere:

a. From in or about 1998 through April 1999, FRANK NATIELLO III, a/k/a "Junior," a/k/a "Cheech," the defendant, and two co-conspirators not named as defendants herein ("CC-1" and "CC-2") trimmed marijuana plants and packaged marijuana in the basement of a house, in Port Jervis, New York, rented by a co-conspirator not named as a defendant herein ("CC-3").

b. In or about December 2005, in Middletown, New

York, NATIELLO had a conversation with CC-3 in which NATIELLO discussed the possibility of CC-3 working once again with members of the Natiello Organization.

c. In or about 2009, NATIELLO agreed to pay CC-3 approximately \$2,500 per month so that the Natiello Organization could operate a grow house in CC-3's basement and garage, which was located in or near Mamakating, New York.

d. In or about 2010, CLEMENTE FERNANDEZ, the defendant, worked at the marijuana grow operation in CC-3's garage, which was located in or near Mamakating, New York.

e. From at least in or about early 2010 through in or about April 2011, NATIELLO and the Natiello Organization operated grow houses at, at least, nine different residences in Sullivan County, New York, from which approximately 7,900 marijuana plants were seized by law enforcement officers on or about March 29, 2011.

f. From at least in or about early 2010 through in or about April 2011, JESUS GUTIERREZ, a/k/a "Jenaro Ramirez," a/k/a "Genaro Ramirez," a/k/a "Jenaro Ramirez Casiano," a/k/a "Jenaro Casiano," a/k/a "Steve," a/k/a "Ponch," the defendant, supervised the day-to-day operations of the Natiello Organization's marijuana grow operations in Sullivan County and recruited multiple workers to cultivate and harvest the marijuana plants.

g. From in or about 2010 through in or about March 2011, JOSHUA SCHULTZ, a/k/a "Josh Schultz," a/k/a "El Gordo," the defendant, conducted a marijuana grow operation for the Natiello Organization, that at one point contained more than 1,700 marijuana plants, in and around a residence on Barker Road in Highland, New York.

h. From in or about 2010 through in or about April 2011, CLEMENTE FERNANDEZ, the defendant, conducted a marijuana grow operation for the Natiello Organization, that at one point contained approximately 300 marijuana plants, in and around his residence on Route 209 in or near Mamakating, New York.

i. From in or about 2010 through in or about April 2011, JUAN DAVID ZAPATA-MONTOYA, a/k/a "Juan Hernandez," the defendant conducted a marijuana grow operation for the Natiello Organization in a home on Cutler Road in or near Liberty, New York.

j. In or about September 2010, NATIELLO purchased a residence on South Road in or near Wurtsboro, New York and thereafter conducted a marijuana grow operation for the Natiello Organization, which at one point contained more than 300 marijuana plants, at that residence in or about early 2011.

(Title 21, United States Code, Section 846.)

COUNT TWO

The Grand Jury further charges:

7. The allegations contained in paragraphs 1, 2 and 6 are hereby repeated, realleged and incorporated by reference as if fully set forth herein.

8. From in or about early 2010 through in or about April 2011, in the Southern District of New York and elsewhere, FRANK NATIELLO III, a/k/a "Junior," a/k/a "Cheech," JOSHUA SCHULTZ, a/k/a "Josh Schultz," a/k/a "El Gordo," JESUS GUTIERREZ, a/k/a "Jenaro Ramirez," a/k/a "Genaro Ramirez," a/k/a "Jenaro Ramirez Casiano," a/k/a "Jenaro Casiano," a/k/a "Steve," a/k/a "Ponch," CLEMENTE FERNANDEZ, JUAN DAVID ZAPATA-MONTOYA, a/k/a "Juan Hernandez," the defendants, intentionally and knowingly did manufacture and distribute, and possess with intent to manufacture and distribute, a controlled substance, in violation of Title 21, United States Code, Section 841(a)(1).

9. The controlled substance involved in the offense was 1000 and more marijuana plants, in violation of Section 841(b)(1)(A) of Title 21, United States Code.

(Title 21, United States Code, Sections 812, 841(a)(1) and (b)(1)(A) & Title 18, United States Code, Section 2.)

FORFEITURE ALLEGATION

10. As a result of committing the controlled substance offenses alleged in Counts One and Two of this Indictment, defendants FRANK NATIELLO III, a/k/a "Junior," a/k/a "Cheech," JOSHUA SCHULTZ, a/k/a "Josh Schultz," a/k/a "El Gordo," JESUS GUTIERREZ, a/k/a "Jenaro Ramirez," a/k/a "Genaro Ramirez," a/k/a "Jenaro Ramirez Casiano," a/k/a "Jenaro Casiano," a/k/a "Steve," a/k/a "Ponch," CLEMENTE FERNANDEZ, JUAN DAVID ZAPATA-MONTOYA, a/k/a "Juan Hernandez," the defendants, shall forfeit to the United States pursuant to 21 U.S.C. § 853, any and all property constituting or derived from any proceeds the said defendants obtained directly or indirectly as a result of the said violation and any and all property used or intended to be used in any manner or part to commit and to facilitate the commission of the violations alleged in Counts One and Two of this Indictment, including but not limited to the following:

a. At least \$100,000,000 in United States currency, in that such sum in aggregate is property representing the amount of proceeds obtained as a result of the offenses alleged in Counts One and Two of this Indictment, for which the defendants are jointly and severally liable.

b. All that lot or parcel of land, together with its buildings, appurtenances, improvements, fixtures, attachments and easements, located at 800 South Road, Wurtsboro, New York.

Substitute Assets Provision

11. If any of the above-described forfeitable property, as a result of any act or omission of the defendants:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third person;
- c. has been placed beyond the jurisdiction of the Court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be subdivided without difficulty;

it is the intent of the United States, pursuant to 21 U.S.C. § 853(p), to seek forfeiture of any other property of said defendants up to the value of the above forfeitable property, including but not limited to the following:

147 Van Brunt Street, Brooklyn, New York

60 Summit Street, Brooklyn, New York

1099 South Road, Wurtsboro, New York

1105 South Road, Mamakating, New York

South Road (lot 36), Wurtsboro, New York

625 Midland Avenue, Staten Island, New York

69 Coffey Street, Brooklyn, New York

71 Coffey Street, Brooklyn, New York

800 South Road, Wurtsboro, New York

(Title 21, United States Code, Sections 841(a)(1) and 853.)

71 Coffey Street, Brooklyn, New York

800 South Road, Wurtsboro, New York

(Title 21, United States Code, Sections 841(a)(1) and 853.)

Preet Bharara

PREET BHARARA

United States Attorney